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Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran*

Summary

The present report, submitted in accordance with General Assembly resolution 62/168, is intended to reflect the broader patterns and trends in the human rights situation in the Islamic Republic of Iran on the basis of that country's international treaty obligations and the observations made by treaty monitoring bodies and the special procedures of the Human Rights Council. While the report focuses especially of the concerns identified in the resolution, it also includes a section on economic, social and cultural rights in order to present a picture of the entire spectrum of civil, cultural, economic, political and social rights in the Islamic Republic of Iran.

The report consists of an overview of the legal and institutional framework in the Islamic Republic of Iran; highlights of positive developments as well as protection gaps in the area of economic, social and cultural rights; thematic issues in the area of civil and political rights identified in the General Assembly resolution, in particular concerns raised by the international human rights mechanisms; an overview of the country's cooperation with the Office of the United Nations High Commissioner for Human Rights and international human rights mechanisms, including in the areas of treaty ratification and reporting and interactions with the special procedures, including in-country missions; and conclusions and steps that may be taken by the Iranian authorities.

* The present report was submitted after the deadline as a result of consultations with the Member State.

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I. Introduction

1. The present report is submitted in accordance with General Assembly resolution 62/168, in which the Assembly requested the Secretary-General to submit to it at its sixty-third session a comprehensive report on the situation of human rights in the Islamic Republic of Iran.

2. The report is intended to reflect the broader patterns and trends in the human rights situation in the Islamic Republic of Iran, based on international treaty obligations, and includes observations made by treaty monitoring bodies and the special procedures of the Human Rights Council.[1] While the concerns identified in the resolution are given special focus, the report also includes a section on economic, social and cultural rights in order to present a picture of the entire spectrum of civil, cultural, economic, political and social rights in the Islamic Republic of Iran.

II. Legal and institutional framework of the Islamic Republic of Iran relevant to the promotion and protection of human rights

A. Legal framework

3. The 1979 Constitution of the Islamic Republic of Iran guarantees a wide range of human rights and fundamental freedoms. However, in practice there are a number of serious impediments to the full protection of human rights and the independent functioning of the different institutions of the State.

4. The Iranian Constitution contains a comprehensive chapter on rights of the people encompassing civil and political rights as well as economic, social and cultural rights: non-discrimination (art. 19), equality before the law (art. 20), women's rights (art. 21), the right to human dignity (art. 22), freedom of belief (art. 23), freedom of the press (art. 24), secrecy of communication (art. 25), freedom of association (art. 26), freedom of assembly (art. 27), the right to work (art. 28), welfare rights (art. 29), the right to education (art. 30), the right to housing (art. 31), arbitrary arrest (art. 32), the right to residence (art. 33), the right to recourse to the courts (art. 34), the right to counsel (art. 35), sentencing in accordance with the law (art. 36), the presumption of innocence (art. 37), the prohibition of torture (art. 38), the rights of arrested persons (art. 39), limitation of rights based on public interest (art. 40), the right to citizenship (art. 41) and naturalization (art. 42).

5. In an effort to facilitate judicial enforcement of the fundamental rights enshrined in the Constitution, the Government has developed complementary legislation on "citizens' rights" aimed at providing the courts with a new enforcement tool. The bill was passed by Parliament and approved by the Guardian Council on 4 May 2005. On 22 May 2008, it was published in the Official Gazette and given legal effect.

[1] It should be noted that some concluding observations, for instance by the Human Rights Committee in 1993, are now dated owing to the long delay in periodic reporting by the Islamic Republic of Iran, although the concerns cited herein remain valid.

6. The Penal Code and the Code of Penal Procedure provide various procedural guarantees aimed at ensuring due process of law and fair trial rights. For instance, article 190 of the Code of Penal Procedure requires that defence lawyers be given full access to prosecution documents and time to review them. However, some provisions fall short of international human rights standards. For instance, article 33 of the Code of Criminal Procedure allows for a suspect to be detained without charge for one month, which may then be renewed.

7. It was reported that a revised Penal Code drafted in January 2008 was being debated in Parliament at the time of preparation of the present report. The revised Penal Code, if adopted, contains some provisions that would be incompatible with international human rights standards, including an article on apostasy that would make the death penalty mandatory for conversion from Islam to other religions.

B. Institutional framework

8. While the Constitution provides for a separation of powers between the executive, legislative and judicial functions, there are a number of institutional constraints on their independent functioning and ability to protect human rights.

9. Despite the separation of powers provided for in article 57 of the Constitution, the Supreme Leader, currently Ayatollah Ali Khamenei, supervises the executive, legislative and judicial branches and other key institutions (E/CN.4/2006/61/Add.3, para. 12). This is reinforced by the system of advisory councils provided for in the Constitution. The Guardian Council is composed of six theologians appointed by the Supreme Leader and six jurists nominated by the judiciary. It has the power to veto the bills passed by Parliament if it views them as being inconsistent with the Constitution and sharia law. The Expediency Council serves as an advisory body for the Supreme Leader with an ultimate adjudicating power in disputes over legislation between Parliament and the Guardian Council. The Assembly of Experts, comprising clerics elected through a general election, has the power to appoint and remove the Supreme Leader.

10. The Supreme Leader appoints the head of the judiciary who in turn appoints the head of the Supreme Court and the Chief Public Prosecutor. The Iranian judicial system has three tiers: regular civil and criminal courts are overseen by courts of appeal that are in turn are supervised by the Supreme Court. There are specialized courts at different levels, such as the administrative court, family courts and juvenile courts. There are also special public and revolutionary courts that try certain categories of offences, including crimes against national security and narcotics smuggling. Decisions rendered in revolutionary courts can be appealed, except for sentences of less than three months' imprisonment and fines under 500,000 rials. Special courts handle cases involving military personnel and the clergy. The Working Group on Arbitrary Detention, during its visit in 2003, raised concerns about the impact of such courts on the principle of equality before the law. The Working Group called for their functions to be transferred to the ordinary courts.

11. The Working Group also noted that the abolition of prosecutors between 1995 and 2002 was one of the main reasons for the malfunctioning of the justice system (E/CN.4/2004/3/Add.2 and Corr.1). Prosecutors were reintroduced to the system in 2002; however they remain functionally part of the judiciary under the supervision of the head of the judiciary and do not exercise a fully independent role.

12. A further institutional problem noted in section IV below is the enforcement of directives issued by the head of the judiciary, for instance the prohibition on stoning and public executions. Iranian judicial authorities informed the Office of the United Nations High Commissioner for Human Rights (OHCHR) that these circulars are intended as interim measures until the passage of new laws. They also informed OHCHR that there are now "supervisory bodies" at the lower levels of the judiciary, particularly in the regions, to ensure greater consistency in the application of such rules.

13. There are several other institutional mechanisms that provide opportunities for citizens to seek redress. Article 174 of the Constitution provides for a National General Inspectorate under the supervision of the head of the judiciary that supervises the proper conduct of affairs and the correct implementation of laws by the administrative organs of the Government. The Inspectorate reportedly handles individual complaints and is somewhat akin to an ombudsman system. Under article 90 of the Constitution, the Parliament can also examine and investigate written complaints by the public against its own work and the work of the executive and judicial branches. In addition, there are quasi-judicial institutions, including arbitration and dispute settlement councils, which settle large volumes of cases of a non-judicial or less complicated nature and increase the public's participation in and contribution to the proceedings. Moreover, the Islamic Human Rights Commission, established in 1996, is a consultative body composed of representatives of the Government and the judiciary that monitors the human rights situation in the country. It has not been recognized by the International Coordinating Committee of National Human Rights Institutions as complying with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In addition, the Islamic Republic of Iran has established a human rights headquarters to facilitate international cooperation and to coordinate Government bodies in human rights-related matters.

III. Economic, social and cultural rights

14. The Islamic Republic of Iran has made gains over the past decade or more in the area of economic, social and cultural rights, although significant disparities remain between urban centres and less-developed regions. Since the 1979 revolution, the Government has pursued socio-economic policies centred on Islamic values, which focus very much on the redistribution of wealth and poverty reduction.

15. While the Islamic Republic of Iran is a party to the International Covenant on Economic, Social and Cultural Rights, it has not reported to the Committee on Economic, Social and Cultural Rights since 1993. The Committee raised concerns about the treatment of minority groups, discrimination between men and women, and legislation and policies on cultural freedom (E/C.12/1993/7).

16. According to the United Nations Development Programme Human Development Report for 2007/2008, the human development index of the Islamic Republic of Iran rose from 0.649 in 1991 to 0.759 in 2005. This largely reflected increases in per capita income and the allocation of a large proportion of the public budget to social activities. A review of the country's performance in meeting the Millennium Development Goals found that the percentage of the population living

on less than $1 a day had decreased from 0.9 per cent in 1999 to 0.2 per cent in 2005; the percentage living on less than $2 a day had also declined, from 7.3 per cent in 1999 to 3.1 per cent in 2005. Those trends have reportedly slowed during recent years owing to high inflation and increases in consumer prices, but those factors have been offset to some degree by State support. The proportion of underweight children decreased from 15.8 per cent in 1991 to 5 per cent in 2004.

17. The Islamic Republic of Iran has also shown greatly improved results in the education sector, while challenges include a significant rise in the school-age population and the inadequate provision of facilities in rural areas. Net enrolment in primary education steadily increased, from 85 per cent in 1990 to 98 per cent in 2005. In the same period, primary school dropout rates decreased from 13 per cent to 6.6 per cent. Literacy rates among 15- to 24-year-old men and women also increased and progressively equalized, rising from 92.2 and 81.1 per cent respectively in 1990 to 98.1 and 96.7 per cent in 2005.

18. Those demographics make employment an important challenge for the Government, with an annual demand for about 800,000 jobs among the younger generation. Unemployment among women is especially acute and, with increased female university enrolment, rose from 26.8 per cent in 1996 to 40.6 per cent in 2001.

19. In the field of health, the expansion of health facilities, particularly for primary health care, has led to significant improvement in life expectancy, which rose from 64.8 years for men and 65.8 years for women in 1991 to 70.5 and 72.8 years respectively in 2004. The under-5 mortality rate also decreased, from 44 per 1,000 births in 1991 to 36 per 1,000 births in 2001. Maternal mortality due to complications in delivery was also reduced, from 54 to 37 per 100,000 live births during the same period. The proportion of births attended by skilled health personnel increased to about 97.3 per cent.

20. These positive achievements are offset, however, by regional disparities within the country. In terms of the human development index, there is a gap of more than 2 percentage points between the most and least developed provinces. This appears to be driven primarily by income disparities due to a lack of employment opportunities, which in turn are contributing to internal migration from the rural areas to the cities. Disparities are also recorded along gender lines, and these are analysed in more detail in section IV.E. Disaggregated data were not available on minority groups, although discrimination was reported against the Baha'i community; the Committee on Economic, Social and Cultural Rights, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations and the special procedures mandate-holders have previously expressed concern in this regard.

IV. Civil and political rights

21. The past year has seen both positive and negative developments in the area of civil and political rights. Local human rights activists have continued to engage in strong advocacy on human rights issues, increasing public awareness and influencing the decision-making process in various State institutions such as the Parliament. During past years, a public platform was created for debates on human rights issues in the Islamic Republic of Iran, including in the context of general

elections. As described in the relevant sections of the present report, the Iranian authorities have also taken positive steps that suggest responsiveness to local and international concerns on such issues as the death penalty for juveniles, stoning and public executions, although these have not been fully addressed. Whereas steps were taken in Parliament to review legislative provisions that discriminate against women, there is still much room for improvement in this area.

22. Some negative trends have also been reported, including an increase in rights violations targeting women, university students, teachers, workers and other activist groups. Ongoing harassment against human rights defenders, including women's rights activists, has been reported.[2] The independent media have also experienced tightened restrictions, with numerous publications suspended. While two Iranian-American dual nationals detained in 2007 have been released on bail, there were further high-profile arrests of members of the Baha'i community. The Iranian authorities state that those cases relate to espionage and national security concerns.

23. The death penalty continued to be widely applied, including in some cases involving juveniles. There were at least some cases of stoning and public execution, despite moves by the authorities to curb such practices. Cases of amputation and flogging and suspicious deaths and suicides of prisoners while in custody were also reported. The information available on each of the thematic concerns identified in General Assembly resolution 62/168 is summarized in the following sections.

A. Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations

24. As noted above, article 38 of the Constitution prohibits torture, however, the Penal Code does not contain a clear definition of torture as a specific criminal offence. It was reported that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was submitted and approved by the sixth Parliament on 15 December 2002, however it was rejected by the Guardian Council, reportedly because of perceived conflicts with Islamic rules and principles.

[2] According to a local non-governmental organization led by Shirin Ebadi, a Nobel Peace Prize laureate, in 2007 there were 138 informal "requests" for interviews of citizens by the security force or by the judiciary without arrest warrants, 297 arrests and 132 trial cases in the court that resulted in a large number of penal verdicts, including 82 cases of imprisonment of rights activists, union workers, students and teachers. The Iranian authorities dispute these numbers.

25. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has sent a large number of communications to the Iranian authorities concerning serious allegations of torture. In 2007 alone, he sent 24 joint communications and one urgent appeal.[3] The Iranian authorities denied the allegations of torture in most of these cases and responded that fair trials had been conducted with commensurate sentences issued.

26. Amputation and corporal punishment, although justified by the authorities as Islamic punishments, remain a serious cause for concern.[4] When the last periodic report of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights was considered in 1993, the Human Rights Committee concluded that the application of extremely severe punishment, such as flogging, stoning and amputation, was not compatible with the provisions of article 7 of the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party. In its concluding observations in 2005, the Committee on the Rights of the Child expressed its deep regret that:

> ... under existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities ... (CRC/C/15/Add.254, para. 45).

27. An Iranian news agency reported that the hands of four people had been cut off in the city of Mashad. In addition, on 10 January 2007, the same news agency quoted the chief of the judiciary in the western city of Kermanshah as saying that soon there would be a number of limb amputations in public in connection with robberies in the province. Furthermore, it was reported that those accused of homosexual acts were routinely flogged and threatened with execution.

28. The Working Group on Arbitrary Detention, during its visit from 15 to 27 February 2003, noted the widespread use of solitary confinement and "incommunicado" imprisonment for its own sake, not for traditional disciplinary

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[3] For instance, on 2 August 2007, the Special Rapporteur expressed concern over the allegations that a detainee in Marivan was held in a cell measuring 1 square metre, was beaten and was barely fed. He was also repeatedly hung by his hands in a room filled with sewage and excrement and forced to keep his head lifted in order to avoid drowning. On 3 April 2007, the Special Rapporteur sent another communication regarding five men who had allegedly confessed under torture to a number of crimes that had taken place in March 2006. Reports claimed that the detainees had been branded with a red-hot iron, subjected to broken bones in their hands and feet and tortured by an electric drill applied to their limbs. In another case raised by the Special Rapporteur on 1 June 2007, an advocate of linguistic and social rights for Iranians of Azerbaijani ethnicity from the Khoy region is alleged to have been tortured, resulting in extensive bruising on his torso and broken ribs. The prisoner's mother was informed he had been executed and was instructed to collect the body at the prison. Upon arrival, she was informed he had not yet been executed, but she was denied visitation rights.

[4] It is reported that during a nationwide crackdown on "immoral behaviours" in May 2007, police raided a private party in Esfahan, arresting 87 persons, including 4 women and at least 8 people whom they accused of wearing the clothing of the opposite sex. It was reported that police stripped many of them to the waist in the street and beat them until their backs or faces were bloody. Twenty-four of those arrested were tried for "facilitating immorality and sexual misconduct", as well as possession and consumption of alcohol. In June 2007 a court in Esfahan found all of them guilty of various combinations of those charges. Most were sentenced to up to 80 lashes and fines of 10 million to 50 million riyals ($1,000-$5,000). The verdicts are under appeal and have not yet been enforced.

purposes (E/CN.4/2004/3/Add.2 and Corr.1, para. 54). However, the Iranian authorities informed OHCHR that such imprisonment was allowed only in exceptional cases and was limited to very serious crimes, such as murder and espionage, in accordance with the Code of Penal Procedures. The duration of solitary confinement has been reduced from one month to 20 days.

B. Death penalty and public executions

29. The Working Group on Arbitrary Detention noted that the Iranian Penal Code retains five categories of crimes to which diverse punishments can be applied: *hudud, qisas, diyah, ta'zir* and preventive punishments (see E/CN.4/2004/3/Add.2 and Corr.1). *Hudud* constitutes crimes against divine will, the applicable punishments for which include the death penalty, crucifixion, stoning, amputation of the right hand and, for repeat offences, the left foot, flogging, imprisonment and exile. *Qisas* is retribution in kind, broadly similar to "an eye for an eye". Proceedings against the life or physical integrity of the person are subjected to the decision of the victim, who may ask for the guilty party to suffer the same treatment or may accept financial compensation (*diyah*) in the case of murder or physical injury. *Ta'zir* constitutes crimes that incur discretionary punishments applied by the State that are not derived from the Islamic sharia law.

30. The death penalty is imposed for certain *hudud* crimes, including adultery, incest, rape, fornication for the fourth time by an unmarried person, drinking alcohol for the third time, sodomy, sexual conduct between men without penetration for the fourth time, lesbianism for the fourth time, fornication by a non-Muslim man with a Muslim woman, and false accusation of adultery or sodomy for a fourth time. Furthermore, the death penalty can be applied for the crimes of enmity with God (*mohareb*) and corruption on earth (*mofsed fil arz*) as one of four possible punishments. Under the category of *ta'zir* crimes, the death penalty can be imposed for "cursing the Prophet" (art. 513 of the Penal Code). The death penalty may also be applied to such crimes as drug smuggling or trafficking, murder, espionage and crimes against national security.

31. The continuing high incidence of executions remains an ongoing concern, with a sudden surge of executions reported in recent months, which the authorities argue are part of efforts to combat drug trafficking. For instance, on 27 July 2008, there were reportedly 29 executions, 18 for drug-related offences.

32. The Human Rights Committee expressed grave concern over the extremely high number of death sentences, many resulting from trials in which the guarantees of due process of law had not been properly applied (CCPR/C/79/Add.25, para. 8). Under the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party, the application of the death penalty is limited to the most serious crimes and should be applied only in a most restrictive manner while ensuring for the utmost procedural safeguards.

33. In January 2008, the spokesperson of the Iranian judiciary announced that the head of the judiciary had issued a circular banning public execution. The circular applies to all cases and provides that exceptions will be formally decided and approved by the head of the judiciary when and where needed. The circular also

forbids publishing pictures of executions in the newspapers and other media. However, public executions are reported to have still occurred.[5]

C. Stoning as a method of execution

34. In January 2002, the head of the judiciary issued a circular to prohibit stoning as a punishment. However, as in the case of the ban on public executions, this circular does not have a binding legal effect and serves only as an instruction for individual judges.

35. There have been several reports of stoning since this prohibition was declared. In May 2006, two people were stoned to death in Mashad. In July 2007, one male was reportedly stoned to death in Qazvin, although his partner was released from jail in early 2008. The United Nations High Commissioner for Human Rights expressed deep concern over this case in a public statement on 10 July 2007. The special procedures of the Human Rights Council have also voiced their concerns in several communications with the Iranian Government over the practice of stoning women, in particular for reasons of adultery. The existing Penal Code prescribes execution by stoning as the penalty for adultery by married persons.

36. It is reported that stoning verdicts have been suspended for at least 14 people: 11 women and 3 men. It was also reported, in July 2008, that nine people had been sentenced to stoning for adultery, although those figures are disputed by the Iranian authorities. Civil society in the Islamic Republic of Iran is also actively campaigning for the abolition of stoning. The "campaign to stop stoning forever", launched in 2006, is aimed at documenting cases of stoning sentences, identifying attorneys willing to represent the accused and working towards the abolition of stoning altogether.

D. Juvenile executions

37. The head of the judiciary has reportedly established a moratorium on juvenile executions. Once again, the moratorium is not legally binding for judges as it is in the form of an administrative circular, not a law, and cases of execution of juveniles continue to be reported. It appears that the judicial authorities are seeking to delay juvenile death penalty cases on procedural grounds, to maximize both judicial scrutiny and the time available for the families of the victim and perpetrator to reach a *diyah* settlement in accordance with Islamic law.

38. In addition, it is reported that a bill on the establishment of juvenile courts is currently under review by the Parliament. The bill has reportedly been approved "in general" by a majority of parliamentarians and referred to a special committee for more detailed review. The bill promotes principles of restorative justice and provides for diversion from the criminal system to community-based solutions and alternatives to criminal sentences. It is understood that the bill will neither abolish the death penalty for those under the age of 18 who have committed crimes nor formally raise the age of criminal responsibility. However, it represents an important

[5] Amnesty International reported that four men, including one Afghan refugee, were publicly executed in Borazjan on 10 July 2008.

step towards the harmonization of the Iranian legal system with relevant international standards in the area of juvenile justice.

39. Despite these positive developments, it is reported that a large number of juvenile executions are still carried out. Amnesty International reported that between 1990 and 2006, the Islamic Republic of Iran had executed 22 child offenders, constituting almost half of the total number (51) of juvenile executions worldwide during the reporting period. It was further reported that a total of 107 offenders under the age of 18 had been sentenced to death; 36 of those cases are now in the final stages. The Iranian authorities dispute those figures and point to a diminishing trend in juvenile executions over time.

40. Both the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, to which the Islamic Republic of Iran is a party, obligate States parties not to impose the death penalty on those who commit a crime under the age of 18.

41. The age for criminal responsibility under Iranian law is set at 14 years and 7 months for boys and 8 years and 9 months for girls, which is not only discriminatory but also low by international standards. Accordingly, children who commit serious crimes can be processed as adults under the Penal Code (see E/CN.4/2002/42, para. 98). Furthermore, there is a possibility of death sentence under *qisas* (retribution in kind) for juvenile offenders, unless *diyah* is agreed or the offender is forgiven by the victim's family. The sharia jurisprudence considers *qisas* a private right of the family of the victim that cannot be overruled by the decision of a judge or any other authority. In this connection, Iranian officials exclude the State's responsibility for *qisas* cases.[6]

42. In 2005, the Committee on the Rights of the Child expressed grave concern that juvenile executions had continued and urged the Islamic Republic of Iran to take the steps necessary to immediately suspend the execution of the death penalty imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention on the Rights of the Child and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention on the Rights of the Child.

43. The United Nations High Commissioner for Human Rights has given high priority to the issue of juvenile execution in her dialogue with the Iranian authorities, which has led to a number of interventions on individual cases through private representations with the Permanent Mission of the Islamic Republic of Iran to the United Nations at Geneva, letters to the Foreign Minister and public statements. For instance, on 6 December 2007, the High Commissioner expressed grave concern over the execution of Makwan Moloudzadeh the previous day in a prison in Kermanshah Province. It was reported that Mr. Moloudzadeh had been convicted of the rape of three boys seven years earlier, when he was 13 years old, and that the execution had been carried out despite his alleged victims' withdrawing

[6] International human rights law does not make a distinction for *qisas* cases, as convicts are still put to death by the State.

their accusations and the head of the judiciary issuing an order to stay the execution pending a further judicial review of the sentence.[7]

44. On 10 June 2008, the High Commissioner publicly expressed her concern over reports that four juvenile offenders, Behnoud Shojaaee, Mohammad Fadaaee, Saeed Jazee and Behnam Zaare, had been sentenced to death for crimes that they had committed when they were under the age of 18. She acknowledged the steps taken by the Iranian authorities to subject those cases to closer judicial scrutiny and to encourage settlements between perpetrators and the victims' families. The High Commissioner, however, reminded the Iranian authorities of the absolute prohibition on the application of the death penalty for juvenile offenders under international law. It was reported that their executions had been postponed, and the case of Mr. Jazee was reportedly settled with the victim's family.

45. In addition, the High Commissioner, during her visit to Tehran in September 2007, raised the case of Mohammad Latif, who had been sentenced to death for a crime that he had committed under the age of 18. It was subsequently reported that a final settlement had been reached between the families of Mr. Latif and the victim.

E. Women's rights

46. The Islamic Republic of Iran has yet to ratify the Convention on the Elimination of All Forms of Discrimination against Women.

47. According to the United Nations Development Programme Human Development Report 2007/2008, the Islamic Republic of Iran ranks ninety-fourth on the gender development index among the 177 countries surveyed and eighty-seventh on the gender empowerment measures. Gender disparities remain among geographical regions in the country. For instance, according to the Management and Planning Organization of the Islamic Republic of Iran, the gender development index is markedly lower than the national average in certain provinces, such as Sistan Baluchistan, Hormogzan and Zanjang.

48. The Islamic Republic of Iran is reported to have made important achievements in women's education and health since 1990, the baseline year for the Millennium Development Goals. It is likely to achieve benchmarks under Goals 2 (achieve universal primary education), 4 (reduce child mortality) and 5 (improve maternal health). For instance, the female-to-male literacy ratio in the 15-to-24 age group has increased from 87.9 per cent to 98.6 per cent. The girls' primary, secondary and tertiary education enrolment ratio has markedly increased, from 79.2 per cent to 94.3 per cent, with female students constituting 64 per cent of all college students. Access to health care, including reproductive health care, has become nearly universal. As noted previously, maternal and infant mortality rates have also declined sharply.

49. Despite these positive achievements, the Islamic Republic of Iran is faced with a number of challenges in gender equity and equality and empowerment of women. The penal and civil laws contain discriminatory provisions that are in urgent need of

[7] The Permanent Mission of the Islamic Republic of Iran to the United Nations at Geneva contested whether Mr. Moloudzadeh had in fact been sentenced for crimes committed before the age of 18. However, a review of court documents by OHCHR found that the offences included those committed when he was a minor.

reform. On 30 November 2007, the Special Rapporteur on violence against women, its causes and consequences raised concerns over provisions in the family protection draft bill (No. 36780/68357, dated 22 July 2007), which allegedly reversed rights currently enjoyed by women in the family. The bill would, in particular, make it more difficult for women to obtain a divorce, as they would need to prove the impossibility of reconciliation by the intermediary of family counselling centres composed of experts on family studies, law and Islamic law (A/HRC/7/6/Add.1, paras. 214-226).

50. There have recently been some more promising steps to address discriminatory laws. Under Iranian law, provisions for compensation (*diyah*, or blood money) for accidents and deaths put a value on men's lives (and limbs) that is double that of women's. This was recently reviewed by Parliament, and legislation has been proposed to recognize the equal value of women in such cases. The law on inheritance for married women was also reviewed by Parliament. Under the law, when a husband dies, a wife is entitled to a "wife's share" that excludes real property, and the land is passed directly to the children and the parents of the husband. Furthermore, male children are entitled to double the amount of the inheritance of female children. Women parliamentarians have championed new legislation to address this inequality, although it has met resistance from many religious scholars. While both laws have yet to be passed, such legislative initiatives represent positive steps, particularly given the accompanying public debate and discourse on women's rights. The Iranian authorities also point to legislative changes that provide for the possibility of divorce at the request of a woman and the right of mothers to custody of their children.

51. Women have limited participation in wage labour outside of the agricultural sector, estimated at 16 per cent, which signifies that the progress achieved in female education in the recent past has not as yet translated into increased women's economic participation. Concern was noted by the ILO Committee of Experts over women's low labour market participation, and particularly their limited access to senior positions and their high unemployment rate. Furthermore, the Committee noted that without the express repeal of section 1117 of the Civil Code, there would be a continuing negative impact on women's employment opportunities. Women's representatives in Parliament constitute only 4.1 per cent, and women's participation in governance and decision-making positions remains limited. In addition, socio-cultural barriers and gender stereotypes in the school curricula and the media reinforce the prevailing patriarchal attitude in society

52. Gender-based violence is also widespread. During her visit from 29 January to 6 February 2005, the Special Rapporteur on violence against women, its causes and consequences observed that violence against women in the Islamic Republic of Iran was due mainly to gender inequality, perpetuated by patriarchal values and discriminatory laws and procedures against women (E/CN.4/2006/61/Add.3).

53. Concerns have been expressed over an increasing crackdown in the past year on the women's rights movement in the Islamic Republic of Iran. Women's rights activism is sometimes presented by the Iranian Government as being connected to external security threats to the country. For instance, the main organizers of the "one million signatures" campaign reportedly faced arrest and intimidation by the authorities. On 6 March 2007, the United Nations High Commissioner for Human Rights expressed public concern over the arrests of at least 31 women activists

during a peaceful gathering in front of the Islamic Revolutionary Court in Tehran. Several special procedures mandate-holders have raised concerns about the arrest, detention and ill treatment of women's rights defenders on numerous occasions in recent years (see, e.g., A/HRC/7/6/Add.1 and A/HRC/7/28/Add.1). The Special Rapporteur on violence against women, its causes and consequences also noted with concern repeated arrests of women for wearing overtly loose headscarves or tight coats.

F. Rights of minorities

54. The Constitution explicitly declares Islam to be the State religion, but contains two important provisions concerning religious minorities. Article 13 states that Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities who are free to perform their religious rites and ceremonies, within the limits of the law, and to act according to their own canon in matters of personal affairs and religious education. Article 14 also provides protection for non-Muslims, provided they refrain from conspiracy or activity against Islam and the Islamic Republic of Iran.

55. Reports continue to be received about members of the Baha'i community being subjected to arbitrary detention, false imprisonment, confiscation and destruction of property, denial of employment and Government benefits and denial of access to higher education. A significant increase has been reported in violence targeting Baha'is and their homes, shops, farms and cemeteries throughout the country. There have also been several cases involving torture or ill-treatment in custody.

56. The special procedures mandate holders have repeatedly raised the issue of the Baha'is with the Iranian authorities. Since June 2006, the Special Rapporteur on freedom of religion or belief, the Independent Expert on minority issues and the Working Group on Arbitrary Detention have repeatedly raised the issue of the arrest of 54 members of the Baha'i community in the city of Shiraz who were reported to have been involved in community work. Also on 24 April 2007, the Special Rapporteur on freedom of religion or belief expressed concern that Baha'i students were subjected to harassment, vilification and other forms of abuse by their teachers and school administrators. It is alleged that the Baha'i students were forced to identify their religion and then were insulted, threatened with expulsion and, in some cases, summarily dismissed from school. In January and February 2007 some 150 such incidents were reported. Many of the students were informed they had been expelled because of their faith. Moreover, in June 2006, the ILO Committee of Experts concluded that no progress had been made in amending or repealing legislation that was contrary to the ILO Discrimination (Employment and Occupation) Convention of 1958. The Committee also expressed continued concern regarding discrimination against members of recognized and unrecognized religious minorities and ethnic minorities. The Committee noted that discrimination against Baha'is remained particularly serious.

57. On 18 May 2008, it was reported that six members of the Baha'i leadership in the country had been arrested and a seventh member had been detained incommunicado in Mashhad since 5 March 2008. Subsequently, on 23 May, the High Commissioner wrote to the Iranian authorities asking for information on the

reports in the light of the obligations of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights to ensure that no one is detained arbitrarily and to uphold the right to freedom of religion or belief. The Iranian authorities insist that the arrests were made on national security grounds.

58. Other minority groups in the Islamic Republic of Iran are reported to have been subjected to a range of human rights violations. For instance, the special procedures sent a number of communications in connection with the Arab minority in Khuzestan. On 3 February 2006, the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression raised concern over the arrests of seven Arab minority people in the city of Ahwaz in Khuzestan Province on 11 and 12 January 2006 after clashes between Iranian security forces and members of the Arab minority community. On 31 August 2006, the Special Rapporteur on extrajudicial, summary or arbitrary executions drew attention to information he had received regarding a reportedly secret trial on charges carrying the death penalty of 22 Arab minority activists. On 13 November 2006, the Special Rapporteur wrote again to the Iranian authorities in connection with the death sentences of 10 of the 22 individuals expressing concern over reports that they had been tortured to confess and had had no access to lawyers prior to their trials. The Iranian authorities insist that the arrests were made in connection with terrorist activities.

59. In addition, the special procedures have raised a number of communications concerning members of the Nematollahi Sufi Muslim community, the Kurdish community, the Sunni community, the Baluchi community, the Azeri-Turk community and the Christian community who have reportedly been subjected to arbitrary arrests and torture, allegedly in connection with peaceful demonstrations for their rights, such as the right to speak their own language and to hold religious ceremonies.

60. Treaty bodies have also addressed the issue of the rights of minorities in the Islamic Republic of Iran. As such, the Human Rights Committee expressed its concern at the extent of the limitations and restrictions on the freedom of religion and belief, noting that conversion from Islam is punishable and that even followers of the three recognized religions are facing serious difficulties in the enjoyment of their rights. The Committee was particularly disturbed about the extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant are subject to extremely severe restrictions (CCPR/C/79/Add.25, para. 16). In 2003, the Committee on the Elimination of Racial Discrimination expressed its concern over the reported discrimination faced by certain minorities, including Baha'is, who are deprived of certain rights, and that certain provisions of the State party's legislation appear to be discriminatory and on ethnic and religious grounds (CERD/C/63/CO/6, para. 14). In 2005, the Committee on the Rights of the Child expressed concern that a large number of Baha'i students had not been admitted to university on the grounds of their religious affiliation (CRC/C/15/Add.254, para. 59).

61. The Islamic Republic of Iran has been a long-standing and generous host to a substantial refugee population, particularly from neighbouring Afghanistan. Following the voluntary repatriation of approximately 1 million Afghan refugees from 2002 to 2004, the Bureau of Aliens and Foreign Immigrants Affairs under the Interior Ministry conducted two inclusive refugee registration exercises between

2005 and 2007. In 2008, the Bureau has conducted a third Afghan refugee registration exercise and is presently in the process of issuing the corresponding refugee card to more than 850,000 Afghan registered refugees. Commendably, it is foreseen that work permits will also be issued to refugees upon registration. However, the Committee on the Rights of the Child noted that refugee children are currently being enrolled in schools only if their parents have registered with the authorities, and that the enrolment of refugee children was not being offered free of charge (ibid.).

G. Freedom of peaceful assembly and association and freedom of opinion and expression

62. Serious concern has been expressed by the international community regarding the right to freedom of peaceful assembly and association and freedom of opinion and expression. The Human Rights Committee expressed concern over the extent of limitations to the freedom of expression, assembly and association exemplified by articles 6 and 24 of the Constitution and article 16 of the Law pertaining to Activities of Parties, Societies and Political and Professional Associations. It noted that contrary to the provisions of articles 18 and 19 of the International Covenant on Civil and Political Rights, members of certain political parties who did not agree with what the authorities believed to be Islamic thinking or who expressed opinions in opposition to official positions had been discriminated against. Self-censorship also seemed to be widespread in the media, and severe limitations appeared to have been placed upon the exercise of freedom of assembly and of association (CCPR/C/79/Add.25, para. 15).

63. Similar concerns have been reiterated by the special procedures mandate holders. During his visit from 4 to 10 November 2003, the Special Rapporteur on the right to freedom of opinion and expression (see E/CN.4/2004/62/Add.2) noted a strong desire for reform among civil society, within Parliament and at the highest levels of the Government of the time, but reforms were hampered by a number of institutional blocks. He noted that many limitations in the Press Law and the Penal Code did not comply with the restrictions possible under article 19, paragraph 3, of the International Covenant on Civil and Political Rights. He observed that the grounds for limitations such as "insult against Islam" or "criticism" lacked objective criteria and clear definition and could result in misinterpretation by judges. He also urged the Iranian authorities to review the legislation limiting the exercise of freedom of opinion and expression and to give a clearer definition to the provisions limiting this right.

64. Furthermore, the Special Rapporteur underlined that the use of revolutionary courts to try "opinion-related offences" had a negative impact on the exercise of the right to freedom of opinion and expression. He called upon the Iranian Government to grant amnesty to all prisoners prosecuted for press and opinion-related offences.

65. There have been increasing reports of tightening curbs on the media in the recent past. The crackdown has affected print media, weblogs and websites, and journalists have been imprisoned. A well-known human rights defender in the country said that in the period from March 2007 to March 2008, approximately 30 newspapers and magazines had been suspended in the country, including *Sharq* and *Hammihan* dailies as well as *Madrese*, *Zanan* and *Donyaye Tasvir*, *Sobh-e Zendegi*,

Talash and *Haft*. Some women's rights activists were indicted on national security grounds owing to their weblogs. It is further reported that during the month of May 2008 alone, more than 18 weblogs focusing on discriminatory laws against women (the "1 million signatures" campaign) had been filtered. The censorship of books has reportedly been tightened, affecting negatively the environment for the publishing industry and writers. The Iranian Government appears to encourage self-censorship openly, as the Islamic Culture and Guidance Minister was quoted in the media as saying that if book publishers were to do some self-censorship, they wouldn't have to complain so much.

66. The right of workers to form independent trade unions has been complicated by an apparent contradiction between the national laws and the Constitution. While the Constitution guarantees the right to association and assembly, section 6 of the Labour Law is vaguely worded in terms of workers forming free trade unions. It is reported that attempts to create a number of workers' associations and strike actions over wages have been met by arbitrary arrests and violence by the security forces.

H. Lack of due process rights and failure to respect the rights of detainees

67. As noted above, the Iranian Constitution, the Penal Code and the Code of Penal Procedure provide for a range of procedural guarantees in connection with the due process of law. Nevertheless, more than 65 per cent of the communications sent to the Islamic Republic of Iran by the special procedures mandate holders in 2007 related to concerns over the lack of due process rights and the failure to respect the rights of detainees.

68. Similarly, the Human Rights Committee expressed concern over the lack of safeguards for due process and fair trials and deplored the lack of respect for due process of law, particularly before the revolutionary courts, where trials in camera tended to be the rule and where apparently no real possibility was provided to the accused to prepare a defence (CCPR/C/79/Add.25, para. 12).

69. The Working Group on arbitrary detention, during its visit from 15 to 27 February 2003, noted the failure to observe procedural formalities as a guarantee against arbitrary treatment. Particularly in revolutionary court hearings, an extremely restrictive interpretation of article 128 of the Code of Penal Procedure and note 3 to the Law on the Selection of Counsel led to the exclusion of counsel at the discretion of the judges. The Working Group noted that the active involvement of counsel must be provided for during all stages of the process and that access to legal aid must be made more effective (E/CN.4/2004/3/Add.2 and Corr.1). The Iranian Bar Association has expressed concern over new legislation that establishes a parallel system for the issuance of attorney licences, which could further undermine the independence of the bar.

70. Women bear the negative impact of discriminatory laws and practices. The Special Rapporteur on violence against women, its causes and consequences noted that the rules of evidence discriminated against women. For example, in criminal offences such as murder or "illicit sexual relations", the woman's testimony is worth only half that of a man and must be corroborated by the testimony of a man in order to be accepted. Furthermore, she noted that the punishments imposed were disproportionate to the seriousness of the offences committed and that such arbitrary

punishments frequently discriminated against women, who were punished more harshly than men who committed the same crime (E/CN.4/2006/61/Add.3).

IV. Cooperation with the Office of the United Nations High Commissioner for Human Rights and international human rights mechanisms

A. Cooperation with the United Nations human rights treaty system

71. The Islamic Republic of Iran is a party to four major United Nations human rights treaties: the Convention on the Rights of the Child (ratified on 13 July 1994), the Convention on the Elimination of Racial Discrimination (ratified on 29 August 1968), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both ratified on 24 June 1975). It has ratified some other human rights-related treaties, including the Convention Relating to the Status of Refugees (1951) and the Protocol thereto (both ratified on 28 July 1976), the Convention on the Prevention and Punishment of the Crime of Genocide (1948) (ratified on 14 August 1956), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) (ratified on 17 April 1985), and the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified in May 2002; the Islamic Republic of Iran has ratified 13 international labour conventions).

72. The Islamic Republic of Iran has had a poor record of cooperation with treaty bodies. It has not reported to the Committee on Economic, Social and Cultural Rights or the Human Rights Committee for more than a decade. The concluding observations of each of those bodies adopted in 1993 remain largely unimplemented. However, on the positive side, the more recent country reports were examined by the Committee on the Rights of the Child in 2000 and 2005 respectively and by the Committee on the Elimination of All Forms of Racial Discrimination in 2003, enabling an in-depth analysis of the various forms of discrimination and of the situation of the rights of the child.

73. The Islamic Republic of Iran has a practice of entering general reservations upon signature or ratification, which has repeatedly been cited by treaty bodies as one of the main factors impeding the enjoyment of some human rights protected under the conventions.

B. Cooperation with the special procedures

74. The Islamic Republic of Iran issued a standing invitation to all thematic special procedures mandate holders in June 2002, which coincided with the discontinuation of the mandate of the Special Representative on the human rights situation in the Islamic Republic of Iran established by the Commission on Human Rights in 1984. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (July 2005; see E/CN.4/2006/41/Add.2), the Special Rapporteur on violence against women, its causes and consequences (January/February 2005; see E/CN.4/2006/61/Add.3), the Special Rapporteur on the human rights of migrants

(February 2004; see E/CN.4/2005/85/Add.2), the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (November 2003; see E/CN.4/2004/62/Add.2), and the Working Group on Arbitrary Detention (February 2003; see E/CN.4/2004/3/Add.2 and Corr.1) have so far visited the Islamic Republic of Iran. Visits of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial summary or arbitrary executions and the Special Rapporteur on freedom of religion or belief were agreed to in principle, but have yet to take place. The Special Rapporteur on extrajudicial summary and arbitrary executions sent a follow-up request in November 2006 and several additional follow-up requests in March 2008. The Special Rapporteur on freedom of religion or belief reiterated her wish to visit the Islamic Republic of Iran in her latest follow-up letter, dated March 2008. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment requested a visit in 2005 and has sent annual reminders since. The Special Rapporteur on the independence of judges and lawyers requested a visit in 2006 and reiterated his request in 2008. The independent expert on minority issues requested a visit in 2008.

75. The special procedures mandate holders have also sent a large number of individual communications on a wide range of human rights issues vis-à-vis the Islamic Republic of Iran.[8] A total of 56 communications were sent in 2007, 42 of which were joint communications. The Iranian authorities responded in 10 cases.

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

76. The United Nations High Commissioner for Human Rights visited the Islamic Republic of Iran in September 2007 for a conference on human rights and cultural diversity of the Non-Aligned Movement. During her visit, she met with senior Government representatives and discussed a range of concerns, including the death penalty (especially for juveniles) and women's rights. In the course of those discussions, the Iranian authorities expressed interest in cooperation between OHCHR and the Iranian judiciary. Subsequently, in May 2008, at the invitation of the judiciary, an OHCHR technical assessment mission visited Tehran to explore possible areas of cooperation. As an initial step, OHCHR suggested to the authorities that the Islamic Republic of Iran accept a visit by the Special Rapporteur on the independence of judges and lawyers before the end of 2009.

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[8] In 2007 alone, the Special Rapporteur on extrajudicial, summary or arbitrary executions sent 20 communications to the Islamic Republic of Iran. The Working Group on Arbitrary Detention processed 17 communications; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent 20 communications; the Special Rapporteur on the independence of judges and lawyers sent 7 communications; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent 24 communications; the Special Rapporteur on the human rights of migrants sent 1 communication; the Special Representative of the Secretary-General on the situation of human rights defenders sent 23 communications; the Special Rapporteur on violence against women, its causes and consequences sent 10 communications; the Special Rapporteur on freedom of religion or belief sent 3 communications; and the Special Rapporteur on the right to education sent 1 communication.

77. The High Commissioner has intervened with the Iranian authorities in a number of individual human rights cases through private representations, letters and public statements. These included cases involving the rights of women, freedom of assembly, juvenile executions, cruel, inhuman or degrading treatment or punishment, including stoning, and freedom of religion and the rights of minorities.

VI. Conclusions

78. **Many areas of continuing concern for human rights in the Islamic Republic of Iran are noted in the present report, as well as some positive steps taken by the Iranian authorities to address discriminatory laws and restrict aspects of the death penalty. The Secretary-General encourages the Government of the Islamic Republic of Iran to address the concerns highlighted in the report and to continue to revise national laws, particularly the new Penal Code and juvenile justice laws, to ensure compliance with international human rights standards and prevent discriminatory practices against women, ethnic and religious minorities and other minority groups. The Secretary-General notes the positive achievements of the Islamic Republic of Iran against many economic and social indicators and encourages the Government to continue to address regional disparities in the enjoyment of economic, social and cultural rights, as well as discrimination against women and minorities.**

79. **The Secretary-General welcomes the recent steps taken by the Government of the Islamic Republic of Iran to explore cooperation on human rights and justice reform with the United Nations, including OHCHR. He encourages the Government to ratify major international human rights treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to withdraw the general reservations it has made upon the signature and ratification of various human rights treaties, as recommended by the respective treaty bodies. The Secretary-General hopes that the Islamic Republic of Iran will finalize its long-outstanding periodic reports under human rights treaties, particularly to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, to allow a systematic review of progress in implementing the related obligations. The Secretary-General welcomes the Government's standing invitation to the Human Rights Council special procedures mandate holders and encourages the Government to facilitate their visits to the country in order that they might conduct more comprehensive assessments.**